

Message Text

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TO AMEMBASSY PORT AU PRINCE IMMEDIATE

C O N F I D E N T I A L STATE 239763

E.O. 11652: GDS

TAGS:SHUM, MASS, HA

SUBJECT: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS STATEMENT

REF: A) STATE 237752, B) STATE 231122

1. FOLLOWING IS DRAFT REPORT ON HUMAN RIGHTS PRACTICES IN HAITI PREPARED IN DEPARTMENT FOR POSSIBLE SUBMISSION TO CONGRESS PURSUANT SECTION 502B(B) OF SECURITY ASSISTANCE ACT OF 1976. EMBASSY COMMENTS ON THIS DRAFT, NOT YET FULLY CLEARED IN DEPARTMENT, REQUESTED SOONEST AS PART OF RESPONSE TO REF (A).

2. QUOTE. I. POLITICAL SITUATION. IN THE FIVE YEARS SINCE HIS FATHER'S DEATH, PRESIDENT JEAN-CLAUDE DUVALIER HAS FIRMLY ESTABLISHED HIS OWN LEADERSHIP. HE HAS CARRIED OUT SOME LIMITED POLITICAL LIBERALIZATION, BUT HAITI REMAINS AN AUTHORITARIAN STATE, AS IT HAS BEEN THROUGHOUT MOST OF ITS HISTORY. LIKE HIS FATHER AND SEVEN OF THEIR PREDECESSORS, THE PRESIDENT HAS BEEN PROCLAIMED PRESIDENT-FOR-LIFE AND IS EFFECTIVELY ABOVE THE LAW. THE NATIONAL ASSEMBLY OPERATES WITHIN A DE FACTO
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SINGLE PARTY SYSTEM WHICH FAITHFULLY SUPPORTS GOVERNMENT

POLICY. A STATE OF SIEGE WHICH WAS PROCLAIMED IN 1958 HAS NEVER BEEN FORMALLY ANNULLED.

UPON TAKING OFFICE IN 1971, THE PRESIDENT CALLED FOR EMPHASIS ON NATIONAL RECONCILIATION AND ECONOMIC DEVELOPMENT. HE HAS ATTEMPTED TO AMELIORATE SOME OF THE HARSHER ASPECTS OF THE PREVIOUS REGIME. FOR EXAMPLE, THE TON TON MACOUTES, AN IRREGULAR SECURITY FORCE UNDER THE LATE PRESIDENT FRANCOIS DUVALIER, HAVE BEEN SIGNIFICANTLY REDUCED IN NUMBER AND AUTHORITY. THERE HAVE BEEN REPORTS OF SOME IMPROVEMENT IN PRISON CONDITIONS AND NUMBERS OF POLITICAL PRISONERS HAVE BENEFITTED FROM AMNESTIES. NEVERTHELESS, ALLEGATIONS OF HUMAN RIGHTS VIOLATIONS IN HAITI CONTINUE.

II. LEGAL SITUATION. THE HAITIAN CONSTITUTION OF 1971 PROVIDES GUARANTEES FOR A BROAD RANGE OF UNIVERSALLY-RECOGNIZED HUMAN RIGHTS, AMONG THEM LIFE, LIBERTY AND PRIVACY; FREEDOM OF SPEECH, RELIGION AND ASSEMBLY; WARRANTS FOR ARREST AND SEARCH; HABEAS CORPUS; TRIAL BY JURY; TRIAL OF CIVILIANS IN MILITARY COURTS ONLY DURING A STATE OF SIEGE; A JUDICIARY SEPARATE FROM THE EXECUTIVE AND LEGISLATIVE BRANCHES. THESE PROVISIONS ARE SOMETIMES SUSPENDED, HOWEVER, UNDER THE STATE OF SIEGE.

IN 1975 THE FIRST FORMAL CRIMINAL TRIAL IN YEARS WAS HELD. HOWEVER, THERE REMAIN TACIT LIMITS ON THE DEGREE OF INDEPENDENCE WHICH CRIMINAL COURTS CAN EXERCISE WHEN IMPORTANT POLITICAL CONSIDERATIONS ARE INVOLVED.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.

A. INTEGRITY OF THE PERSON.

ARTICLE 3: UNDER THE FRANCOIS DUVALIER REGIME THERE WAS WIDESPREAD DANGER TO LIFE AND PERSONAL SECURITY, INCLUDING THE RISK OF PROLONGED INCARCERATION DUE TO FALSE DENUNCIATIONS. THIS SITUATION HAS IMPROVED MARKEDLY UNDER JEAN-CLAUDE DUVALIER. DETENTION WITHOUT REGARD TO DUE CONFIDENTIAL

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PROCESS NOW APPEARS LIMITED LARGELY TO THOSE CONSIDERED TO BE SERIOUS SECURITY RISKS OR VIOLATORS.

ARTICLE 5: THERE HAVE BEEN REPORTS OF SOME IMPROVEMENTS IN THE SUBSTANDARD AND FREQUENTLY INHUMANE PRISON CONDITIONS OF SEVERAL YEARS AGO. ALLEGATIONS OF MIS-TREATMENT OF PRISONERS SEEM TO HAVE DIMINISHED. HOWEVER, UNTIL RELIABLE INFORMATION ABOUT DETENTION CONDITIONS IS

OBTAINED BY IMPARTIAL OBSERVERS, IT IS DIFFICULT TO DETERMINE THE DEGREE OF HAITI'S COMPLIANCE WITH THIS ARTICLE.

ARTICLE 8: THE CONSTITUTION PROVIDES FOR THE RIGHT OF PETITION FOR A REDRESS OF GRIEVANCE, BUT HAITIANS HAVE DIFFICULTY IN OBTAINING EFFECTIVE RELIEF FROM THE COURTS IN INSTANCES OF HUMAN RIGHTS VIOLATIONS.

ARTICLE 9: ARBITRARY ARREST OF THOSE CONSIDERED A THREAT TO SECURITY STILL OCCURS. THE GOVERNMENT DOES NOT GENERALLY RELEASE INFORMATION ABOUT PRISONERS, AND IT IS DIFFICULT TO ACCURATELY ESTIMATE THE NUMBER HELD FOR POLITICALLY RELATED REASONS. EXILE IS NO LONGER USED AS A PUNISHMENT. THE PRESIDENT HAS INVITED FORMER POLITICAL EXILES TO RETURN AND MANY HAVE GONE BACK TO HAITI.

ARTICLE 10: A FAIR HEARING IS AVAILABLE IN MOST ORDINARY TRIALS. FAIR HEARINGS ARE LESS LIKELY FOR PERSONS DETAINED ON SECURITY GROUNDS AND TRIED IN THE MILITARY COURTS.

ARTICLE 11: CIVILIAN COURTS APPEAR TO HONOR THIS ARTICLE'S REQUIREMENTS FOR A FAIR TRIAL AND COUNSEL. MILITARY COURTS ARE MORE ARBITRARY.

B. OTHER FREEDOMS.

DISCRIMINATION IS NOT OFFICIALLY CONDONED IN HAITI. HAITIANS CAN GENERALLY MOVE FREELY WITHIN THE COUNTRY. THEY REQUIRE A PASSPORT AND AN EXIT PERMIT TO TRAVEL ABROAD. DOCUMENTS ARE OFTEN REFUSED TO PERSONS CONFIDENTIAL

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SIDERED SUBVERSIVE OR AGAINST WHOM CHARGES ARE PENDING.

THERE ARE NO RESTRICTIONS AGAINST PROPERTY OWNERSHIP BY HAITIANS. ILLEGAL ABUSES OF PROPERTY RIGHTS BY CORRUPT OFFICIALS IN THE 1960'S HAVE BEEN CURBED AND PARTIALLY CORRECTED. THERE ARE STILL ALLEGATIONS THAT PROPERTIES SEIZED FROM PERSONS CONVICTED OF SUBVERSION ARE BEING MISAPPROPRIATED.

CATHOLICISM IS THE STATE RELIGION BUT OTHER RELIGIOUS GROUPS EXIST FREELY. COMMUNISM AND ANARCHISM ARE OUT-LAWED. THERE ARE LIMITATIONS ON THE EXPRESSION OF OPINIONS. THE PRESS EXERCISES SELF-CENSORSHIP AND HAS ONLY RECENTLY COME TO CRITICIZE BUREAUCRATIC SHORT-COMINGS OF THE GOVERNMENT. IN 1975, A MAJOR CRIMINAL TRIAL

WAS FREELY DEBATED IN THE PRESS. A PERIODICAL DENOUNCED
A MILITIA UNIT FOR ALLEGED GROSS HUMAN RIGHTS VIOLATIONS.

THE EXERCISE OF THE RIGHT OF ASSEMBLY IS RESTRICTED;
POLITICAL GATHERINGS, HOWEVER PEACEFUL, ARE NOT PERMITTED.

IV. OTHER HUMAN RIGHTS REPORTING.

THE INTER-AMERICAN HUMAN RIGHTS COMMISSION'S ANNUAL REPORT
FOR 1975 DISCUSSES COMMUNICATIONS WITH THE GOVERNMENT OF
HAITI ARISING FROM A 1974 REPORT OF VARIOUS HUMAN RIGHTS
VIOLATIONS INCLUDING THE SUMMARY EXECUTION OF OPPOSITION
POLITICIANS AND TORTURE. IT DISCUSSES IN PARTICULAR THE
COMMISSION'S INQUIRIES CONCERNING TWO INDIVIDUALS ALLEGED
TO BE UNDER DETENTION. THE RESPONSE OF THE HAITIAN
GOVERNMENT IN ONE CASE WAS THAT THERE WAS NO RECORD OF
THE INDIVIDUAL'S ARREST. IN THE OTHER CASE, THE
HAITIAN GOVERNMENT FAILED TO RESPOND.

AMNESTY INTERNATIONAL'S 1974-75 ANNUAL REPORT INDICATED
THE ORGANIZATION'S PRINCIPAL CONCERN IN HAITI WAS "PRO-
LONGED DETENTION WITHOUT DUE PROCESS." IT REFERRED TO
PRISONERS "WHO ARE PEASANT FARMER WORKERS, TEACHERS,
STUDENTS AND OTHER INTELLECTUALS, (WHO) HAVE BEEN DETAINED
FOR BETWEEN 2 AND 12 YEARS," AND RAISED THE POSSIBILITY
THAT SOME OF THEM MAY NO LONGER BE ALIVE. THE REPORT
CLAIMED A 1975 HAITIAN GOVERNMENT AMNESTY OF PRISONERS
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FOLLOWED ADVERSE INTERNATIONAL PUBLICITY. IT ALSO
REFERRED BRIEFLY TO THE PROBLEM OF HAITIANS SEEKING
POLITICAL REFUGEE STATUS IN THE U.S. AND CANADA.

AMNESTY'S MOST RECENT REPORT ON TORTURE (1974) CLAIMS
THAT THERE HAS BEEN LITTLE CHANGE IN THE HUMAN RIGHTS
FIELD IN HAITI, "DESPITE CONCERTED EFFORTS TO IMPROVE
HAITI'S IMAGE ABROAD AFTER DR. DUVALIER'S DEATH." IT
STATES "IT HAS LONG BEEN KNOWN THAT TORTURE IS COMMON
PRACTICE IN HAITI, BUT AS THERE IS NO JUDICIAL MACHINERY,
NOR A FREE PRESS, NOR PRISON VISITS BY FAMILY OR LAWYER,
FEW DETAILS HAVE BEEN AVAILABLE." THE REPORT STATES
THAT THE DEATH RATE IN HAITI'S PRISONS IS HIGH AND DES-
CRIBES VARIOUS FORMS OF MALTREATMENT AND TORTURE.

FREEDOM HOUSE LISTS HAITI AS "NOT FREE." END QUOTE. KISSINGER

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